

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	8:07CV174
	)	
v.	)	
	)	
2004 VOLKSWAGON BEETLE	)	MEMORANDUM AND ORDER
VIN 3VWCK31C64M419875,	)	
	)	
Defendant.	)	
_____	)	

Plaintiff has filed a motion to strike, requesting that the court strike the claim filed by Osmar Yubini Palacios, the claimant, and enter a default judgment for the plaintiff. The motion will be granted.

I shall not here recount the facts leading to this point; they are set forth in my memorandum and order of April 21, 2008, Filing 22. The claimant was then given until April 30, 2008 to show cause, if any there be, why he should not be found to be in default and his claim denied. No further filing or showing has been made by the plaintiff in response to that order.

The failure of a party to appear or participate in a pretrial conference is grounds for sanctions, including the striking of pleadings and entry of judgment. Fed. R. Civ. P. 16(f)(1) states:

On motion or on its own, the court may issue any just orders, including those authorized by Rule 37(b)(2)(A)(ii)-(vii) if a party or its attorney:

(A) fails to appear at a scheduling or other pretrial conference;

(B) is substantially unprepared to participate--or does not participate in good faith--in the conference; or

(C) fails to obey a scheduling or other pretrial order.

Fed. R. Civ. P. 32(b)(2)(A)(ii)-(vii) state in pertinent part that the following orders are permitted in this circumstance:

\* \* \*

(iii) striking pleadings in whole or in part;

\* \* \*

(v) dismissing the action or proceeding in whole or in part;

(vi) rendering a default judgment against the disobedient party;

\* \* \*

Clearly, the court is empowered to take the action requested by the plaintiff, and the claimant has not offered any reason for the court not to take such action. Despite extraordinary efforts by the government's counsel and the court, the claimant has not participated in the conferences to schedule this case to trial on the claim. He has effectively abandoned his claim and is in default. Judgment should be entered accordingly.

IT THEREFORE HEREBY IS ORDERED:

The plaintiff's motion, filing 23, is granted, and

1. The claim of Osmar Yubini Palacios, filing 8, is stricken, and

2. By separate document, default judgment shall be entered in favor of the plaintiff and against the claimant.

DATED this 23<sup>rd</sup> day of May, 2008.

BY THE COURT:

s/ *David L. Piester*

David L. Piester  
United States Magistrate Judge